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DISCRETIONARY REVENUES

Decision

The Government of Canada recognizes that the territorial governments should receive a certain level of discretionary revenue, above and beyond normal funding arrangements, to cover major up-front costs they may deem necessary to prepare for, or to mitigate against, the impacts of resource development projects. The Minister of DIAND is to develop proposals in this regard for consideration by Cabinet.

Background

A widely held perception in the North is that, while the preponderance of benefits of northern resource development flow south, northerners and their governments must shoulder the costs associated with prerequisite social and community infrastructure.

While territorial governments, through personal income tax, property tax, fuel tax and other sources of revenue, do gain from resource development, the size and timing of up-front costs can be out of proportion to their ability to pay. Furthermore, the northern perception is that revenues presently received from resource development, rather than being a benefit to the North, simply reduce the amount of federal subsidy otherwise required by territorial governments.

The consequence of these perceptions is that the incentive for northern citizens and governments to participate in or be supportive of resource development projects is reduced.

In recognition of these circumstances and in partial response to a recommendation of the Alaska Highway Natural Gas Pipeline Enquiry (Lysyk), the Federal government, in 1978, authorized the creation of a "Heritage Fund", by the Yukon Territorial Government. This fund, which has not yet been created, would have sheltered certain incremental territorial revenues from consideration when determining levels of federal subsidy. The proceeds of this fund would form a flow of "discretionary" money which could be used for special expenditures at the discretion of the territorial government, and without effect on the level of the operating grant.

This model, or some variation on it, could form the basis of proposals developed by the Minister to respond to the objectives of the territorial governments.



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DIVISION OF NORTHWEST TERRITORIES

Decision

In response to the longstanding political aspirations of both native and non-native northerners, the Federal Government has accepted in principle sub-division of the present Northwest Territories.

Federal willingness to ultimately divide the NWT will be dependent upon continued support for division by a majority of its residents. Other necessary preconditions to division include the resolution of native land claims and the achievement of consensus among northerners on the location of boundaries and the distribution of powers between territorial, regional and community levels of government.

Background

The boundaries of the NWT have remained unchanged since the Extension Act, 1912. Since that time, northerners and governments alike have considered a succession of proposals to divide the NWT into two or more territories.

In the early sixties, pressure from urban and predominantly non-native interests in the Mackenzie Valley prompted the Minister of Northern Affairs and Natural Resources to introduce legislation proposing an east-west split of the NWT. This split was viewed by supporters as essential to the achievement of more responsible provincial-style government in the developed and settled western portion of the territory. The legislation, introduced in the House of Commons in 1963, was overtaken by the defeat of the government of the day and was not reintroduced.

The Carrothers Commission studied the matter in 1966, and although the report recommended that division be deferred for at least a decade, it nevertheless recognized that division was probably inevitable given the vast size of the NWT.

Native groups have also called for new political institutions in the NWT.

A proposal to create a new territory in the eastern part of the NWT north of the treeline was first formally proposed by Inuit leaders in 1974. The Nunavut (meaning "our land") proposal has since been ratified by the Inuit Tapirisat of Canada and forms the cornerstone of current claims negotiations.

A western jurisdiction, (Denedeh) has also been proposed by native residents of that portion of the NWT in an effort to secure a greater level of self-determination and public involvement in northern government.

Late in 1979 the Drury Commission reported to the Federal Government on its review of political and administrative structures in the NWT. While Mr. Drury's recommendations were more concerned with devolution of political and administrative authority to local and regional levels, he also recommended that a forum be established within the NWT Council to advise on the question of division.

In response to growing pressure from the eastern Arctic, the NWT Legislative Assembly established a Special Committee on Unity in 1979 to determine the means by which political consensus might be generated. The committee report, which declared its commitment in principle to a division of the NWT, was accepted by the Assembly in November 1980. Included among the recommendations was one which called upon the Assembly to conduct a plebiscite on division. The enabling ordinance, providing for a territory-wide plebiscite the following Spring, was passed during the December 1981 session. On April 14, 1982, 51 percent of the eligible voters cast ballots in response to the question "Do you think the Northwest Territories should be divided?". Fifty-six percent voted in favour of division. In the east, voter interest was strong and a clear majority voted in favour of division. In the western areas, the mixed vote reflected a level of uncertainty associated with political, economic and other factors.

Following its consideration of the results of the vote, the Legislative Assembly requested that the Government of Canada to divide the NWT and create a new eastern Arctic territory.

Implications

The Federal Government has announced its preparedness to divide the NWT subject to four clearly defined conditions:

i) Boundaries

The location of new boundaries raises complex issues relating to traditional land use, economic zones, efficient transportation and communication, and regional association.

Any effort to unilaterally impose a solution on this contentious question would fail to obtain full support in the territory. The Federal Government accepts the need for northerners to reach agreement on new boundaries amongst themselves prior to seeking federal approval.

ii) Distribution of Powers

Proposals on the establishment of a more workable system of government in the territory are numerous. Creation of new territories will not necessarily eliminate the feelings of alienation and remoteness which underly support for division. It is vital that there be an appropriate distribution of powers between local, regional and territorial levels of government. Here also the Federal Government acknowledges the need for northerners to reach a consensus.

iii) Native Land Claims

The settlement of Inuit, Dene and Métis claims in the NWT is necessary before decisions on division of the territory are taken. These outstanding claims represent an important effort by aboriginal peoples in the NWT to define their role in the northern and Canadian context. Their settlement, including the delineation of claim areas, will contribute significantly to the resolution of numerous division-induced issues.

iv) Support for Division

Finally, the Federal Government recognizes that its willingness to divide the NWT must be subject to continued support by the majority of residents in the NWT. Both the NWT residents and the Legislative Assembly have agreed to division of the territory. A broad base of continued support will be required as specific decisions relating to the other conditions are taken.

FORMULA FINANCING

Decision

The Federal Government will also move rapidly to introduce a formula-based approach to providing financial support to the territories from the Federal Government. In this connection, the Minister of Indian and Northern Affairs, in conjunction with the Ministers of Finance, Treasury Board and other Departments, is authorized to develop appropriate formula(e) for consideration by Cabinet within three months.

Background

Under the current arrangements, the territorial governments are resourced through their own revenue augmented by federal operating and capital grants. A committee of Government Officials composed of representatives from both Territorial Governments, the Department of Indian and Northern Affairs, Treasury Board Secretariat, the Ministry of State for Social Development and the Department of Finance, reviews the territorial government's requests. The committee then makes recommendations to the Minister of Indian and Northern Affairs as to the level of the federal grants. This committee effectively imposes an expenditure ceiling in the territories similar to that imposed on all Federal Government Programs and Departments.

In attempting to exercise a degree of autonomy in decision-making, the Territorial Governments object to having to submit their budgetary proposals to scrutiny and find that the imposition of unpredictable expenditure ceilings precludes good expenditure planning.

The Drury Commission report of March 1980 examined the issue of resourcing and recommended that consideration be given to using a formula approach utilizing a predetermined base and a realistic escalator in arriving at a federal grant level. This recommendation was predicated on two principles: the development of progressive levels of autonomy and the promotion of management accountability and fiscal responsibility.

In response to the concerns articulated by the territorial governments and the Drury Report recommendations, and with the agreement of the territorial governments, the Minister of Indian and Northern Affairs set up a federal inter-departmental task force to recommend an acceptable alternative approach to funding: A formula was thus developed.

The introduction of formula funding was inevitable, given the vigorous process of politicization undergone by both territories, which has been accompanied by steady maturation in the development of the concepts of responsible government. Formula financing is, in fact, consistent with the Federal Government's objective of responsive and politically accountable government for the territories and will be a welcome replacement to the current unacceptable arrangements for determining federal grants to the territorial governments.

RESPONSIBLE GOVERNMENT

Decision

Responsible and politically accountable government for Yukon and the NWT has been an objective of the Government of Canada for many years. Recognition of full responsible government is viewed as a desirable and realistic short-term goal by many northerners. This aspiration is reflected in the cabinet decision to proceed with amendments to the Yukon Act to confirm, in law, the steps already taken toward achieving responsible government for Yukon, subject to final agreement on comprehensive claims with the Council for Yukon Indians. Cabinet also decided to reconfirm its commitment to the principle of responsible government in the NWT

Definition

The term "Responsible Government" is used by constitutional experts to describe the particular relationship existing between the executive and legislative branches of government in a parliamentary system of government, as in Canada or the United Kingdom (as opposed to the relationship existing in a presidential system of government such as the United States). In that context, government is said to be responsible when it acts with the support of the legislative body and thereby fulfils its function of accountability to that body.

Responsible government therefore presupposes representative government (representatives freely elected by the people), the parliamentary system of government (parliament exercising supreme control over all branches of government) and the Cabinet system (which ensures that Ministers are members of the legislature, that they must retain the confidence of the legislature and that they can appeal to the electorate to return an assembly which will support their policy).

Yukon

During the past decade, the pace of constitutional evolution in the North has accelerated to the point where de facto responsible government has been established in Yukon. The first significant steps toward this status were taken in 1971, when the Commissioner of Yukon was instructed by the Minister of Indian and Northern Affairs to establish and Executive Committee consisting of the Commissioner, two Assistant Commissioners and two elected Council members. He was further instructed to give the fullest possible consideration to the advice of the Executive Committee, particularly that of the elected members. In 1979, by

Ministerial instruction to the Commissioner, the Executive Committee was replaced by an Executive Council consisting entirely of elected representatives, thus completing the process. Amendments to the Yukon Act would involve deletion of the Ministerial (though not the Governor in Council's) power of instruction over the Commissioner, thereby acknowledging the current de facto approximation of the Commissioner's role to that of a lieutenant governor. Also, The Yukon Act would be changed to permit the Commissioner (in effect, the Yukon Cabinet) rather than the Governor in Council in Ottawa to provide for the dissolution of the territorial legislature and the holding of elections.

Northwest Territories

In the NWT, evolution of responsible government has not proceeded as far as it has in Yukon. Currently, the Executive Committee is composed of a majority of elected members while the Commissioner remains an active participant with portfolio responsibilities. The approval of the Commissioner is still required for territorial government decisions. This situation is similar to that in Yukon prior to the 1979 Ministerial instructions to the Commissioner. Given the uncertainties surrounding the questions of division and settlement of native claims, the precise form that responsible government will take in the NWT is not yet clear. Consequently, legislative changes will have to await resolution of these issues.